

LEGISLATURE OF NEBRASKA  
NINETY-SEVENTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1015**

Introduced by Suttle, 10

Read first time January 10, 2002

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to childhood immunizations; to amend sections  
2 71-526 to 71-528, 71-530, and 79-217, Reissue Revised  
3 Statutes of Nebraska, and sections 71-529, 71-539, 71-541  
4 to 71-544, and 71-604, Revised Statutes Supplement, 2000;  
5 to rename the Childhood Vaccine Act; to create the  
6 Childhood Immunization Registry; to change provisions  
7 relating to sharing of immunization information; to  
8 provide duties; to harmonize provisions; to provide  
9 operative dates; to repeal the original sections; and to  
10 outright repeal section 71-540, Revised Statutes  
11 Supplement, 2000.

12 Be it enacted by the people of the State of Nebraska,

1                   Section. 1. Section 71-526, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   ~~71-526.~~ Sections ~~71-526 to 71-530~~ 1 to 12 of this act  
4 shall be known and may be cited as the Childhood Vaccine and  
5 Immunization Registry Act.

6                   Sec. 2. Section 71-539, Revised Statutes Supplement,  
7 2000, is amended to read:

8                   ~~71-539.~~ It is the intent of the Legislature that  
9 ~~sections 71-539 to 71-544~~ the Childhood Vaccine and Immunization  
10 Registry Act provide for the exchange of immunization information  
11 between professionals, facilities, and departments for the purpose  
12 of protecting the public health by facilitating age-appropriate  
13 immunizations which will minimize the risk of outbreak of  
14 preventable childhood diseases.

15                   Sec. 3. Section 71-527, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17                   ~~71-527.~~ The Legislature hereby finds and declares that:

18                   (1) Childhood communicable diseases constitute a serious  
19 threat to the public health of the people of this state and the  
20 prevention of preventable childhood communicable diseases is a goal  
21 of the people;

22                   (2) The effectiveness of childhood vaccines in preventing  
23 certain communicable diseases and thereby saving lives and  
24 preventing debilitating conditions has been well documented.  
25 Vaccines are among the most cost-effective components of preventive  
26 health care; ~~for every dollar spent on childhood immunization, ten~~  
27 ~~dollars are saved in later medical costs,~~

28                   (3) Prevention of childhood diseases should include

1 comprehensive, continuous health care, including regular medical  
2 examinations, treatment by a practitioner familiar with the child,  
3 and age-appropriate administration of immunizations; and

4           (4) The United States Department of Health and Human  
5 Services, Public Health Service, has as its Healthy People 2000  
6 objective to have at least ninety percent of all children  
7 completely immunized by age two. The United States immunization  
8 survey indicates that only seventy-seven percent of children two  
9 years of age had received the basic immunization series. Recent  
10 outbreaks of measles among preschoolers who are not immunized also  
11 have shown that inadequate immunization levels still occur,

12           ~~(5) Nebraska has as its Year 2000 objective that~~  
13 ~~seventy-five percent of its counties are covered by public~~  
14 ~~immunization clinics, that ninety percent of its two-year-olds are~~  
15 ~~minimally immunized, and that ninety-eight percent of its~~  
16 ~~school-aged children are immunized,~~

17           ~~(6) The Surgeon General's 1990 objective to decrease the~~  
18 ~~incidence of cases of mumps and pertussis to less than one thousand~~  
19 ~~has not been achieved, and the incidence of pertussis increased~~  
20 ~~between 1979 and 1987,~~

21           ~~(7) Immunization rates in other developed countries are~~  
22 ~~higher than immunization rates in the United States,~~

23           ~~(8) Diphtheria, tetanus, and pertussis immunization rates~~  
24 ~~in European countries average forty-one percent higher than in the~~  
25 ~~United States,~~

26           ~~(9) Polio immunization rates are twenty-three percent~~  
27 ~~higher in European countries than in the United States,~~

28           ~~(10) Measles immunization rates are twenty-three percent~~

1 higher in England, Denmark, and Norway than in the United States,

2           ~~(11)~~ Childhood communicable diseases ~~should be~~ can be  
3 prevented through protection of Nebraska's children by immunization  
4 against measles, mumps, rubella, diphtheria, tetanus, pertussis,  
5 polio, haemophilus influenzae type B, and such other diseases as  
6 may be indicated based on then current medical and scientific  
7 knowledge with vaccines that have been recommended by the Advisory  
8 Committee on Immunization Practices of the Centers for Disease  
9 Control and Prevention of the Public Health Service of the United  
10 States Department of Health and Human Services or its successor. +

11           ~~(12)~~ The average cost of fully vaccinating a child in the  
12 private sector has increased dramatically in the past decade. The  
13 full battery of childhood vaccines recommended by the Centers for  
14 Disease Control and Prevention in 1982 increased five times in cost  
15 between 1982 and 1989. These increases have made it unaffordable  
16 for many children to receive their immunizations at their private  
17 practitioner's office, and

18           ~~(13)~~ There is a national effort to continue current  
19 immunization programs and to provide additional funds to implement  
20 the Healthy People 2000 objective that ninety percent of children  
21 are appropriately immunized by two years of age.

22           Sec. 4. Section 71-528, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           ~~71-528.~~ (1) It is the intent of the Legislature that the  
25 citizens of the State of Nebraska benefit by participation in  
26 national efforts to take innovative action to provide immunization  
27 of our children by removal of barriers which impede vaccine  
28 delivery and by improving access to immunization services.

1           (2) It is also the purpose of the Childhood Vaccine and  
2 Immunization Registry Act to provide authorization for childhood  
3 immunization programs and demonstration or pilot projects that  
4 document childhood immunization trends, encourage cooperation  
5 between and use of both private practitioners and public providers  
6 in offering health care to children, and otherwise assess a total  
7 approach to immunization against preventable childhood diseases.

8           Sec. 5. Section 71-529, Revised Statutes Supplement,  
9 2000, is amended to read:

10           ~~71-529.~~ The Nebraska Department of Health and Human  
11 Services ~~may~~ shall participate in the national efforts described in  
12 sections ~~71-527 and 71-528~~ 3 and 4 of this act and ~~may~~ shall  
13 develop a statewide immunization action plan which is comprehensive  
14 in scope and reflects contributions from a broad base of providers  
15 and consumers. In order to implement the statewide immunization  
16 action plan, the department ~~may~~ shall:

17           (1) Actively seek the participation and commitment of the  
18 public, health care professionals and facilities, the educational  
19 community, and community organizations in a comprehensive program  
20 to ensure that the state's children are appropriately immunized;

21           (2) Apply for and receive public and private awards to  
22 purchase vaccines and to administer a statewide comprehensive  
23 program;

24           (3) Provide immunization information and education to the  
25 public, parents, health care providers, and educators to establish  
26 and maintain a high level of awareness and demand for immunization  
27 by parents;

28           (4) Assist parents, health care providers, and

1 communities in developing systems, including demonstration and  
2 pilot projects, which emphasize well-child care and the use of  
3 private practitioners and which improve the availability of  
4 immunization and improve management of immunization delivery so as  
5 to ensure the adequacy of the vaccine delivery system;

6 (5) Evaluate the effectiveness of these statewide  
7 efforts, conduct ongoing measurement of children's immunization  
8 status, identify children at special risk for deficiencies in  
9 immunization, and report on the activities of the statewide  
10 immunization program annually to the Legislature and the citizens  
11 of Nebraska;

12 (6) Recognize persons who volunteer their efforts towards  
13 achieving the goal of providing immunization of the children of  
14 Nebraska; ~~and in meeting the Healthy People 2000 objective of~~  
15 ~~series-complete immunization coverage for ninety percent or more of~~  
16 ~~United States children by their second birthday;~~

17 (7) Establish a statewide program to immunize Nebraska  
18 children from birth up to six years of age against measles, mumps,  
19 rubella, poliomyelitis, diphtheria, pertussis, tetanus, hepatitis  
20 B, and haemophilus influenzae type B. The program shall serve  
21 children who are not otherwise eligible for childhood immunization  
22 coverage with medicaid or other federal funds or are not covered by  
23 private third-party payment; and

24 (8) Contract to provide vaccine under the statewide  
25 program authorized under subdivision (7) of this section without  
26 cost to health care providers subject to the following conditions:

27 (a) In order to receive vaccine without cost, health care  
28 providers shall not charge for the cost of the vaccine. Health

1 care providers may charge a fee for the administration of the  
2 vaccine but may not deny service because of the parent's or  
3 guardian's inability to pay such fee. Fees for administration of  
4 the vaccine shall be negotiated between the department and the  
5 health care provider, shall be uniform among participating  
6 providers, and shall be no more than the cost ceiling for the  
7 region in which Nebraska is included as set by the Secretary of the  
8 United States Department of Health and Human Services for the  
9 Vaccines for Children Program authorized by the Omnibus Budget  
10 Reconciliation Act of 1993;

11 (b) Health care providers shall administer vaccines  
12 according to the schedule recommended by the Advisory Committee on  
13 Immunization Practices of the Centers for Disease Control and  
14 Prevention or by the American Academy of Pediatrics unless in the  
15 provider's medical judgment, subject to accepted medical practice,  
16 such compliance is medically inappropriate; and

17 (c) Health care providers shall maintain records on  
18 immunizations as prescribed by this section for inspection and  
19 audit by the Nebraska Department of Health and Human Services or  
20 the Auditor of Public Accounts, including responses by parents or  
21 guardians to simple screening questions related to payment coverage  
22 by public or private third-party payors, identification of the  
23 administration fee as separate from any other cost charged for  
24 other services provided at the same time the vaccination service is  
25 provided, and other information as determined by the department to  
26 be necessary to comply with subdivision (5) of this section. Such  
27 immunization records may also be used for information exchange as  
28 provided in sections ~~71-539 to 71-544~~ 7 to 11 of this act.

1           Sec. 6. (1) The health care provider administering an  
2 immunizing agent to a child shall present the caregiver of the  
3 child with written documentation of the immunizing agent  
4 administered, the number of doses given, the dates when  
5 administered, and whether further immunizations are indicated.

6           (2) Unless the parent or guardian of the child receiving  
7 the immunizing agent objects by written notice received by the  
8 health care provider prior to reporting, a health care provider  
9 shall report to the Department of Health and Human Services, for  
10 entry into the Childhood Immunization Registry, each immunization  
11 administered by the health care provider pursuant to rules and  
12 regulations adopted under the Childhood Vaccine and Immunization  
13 Registry Act. The department shall design and manage the process  
14 of reporting an immunization to optimize efficiency and ease of use  
15 for the health care provider based upon input the department  
16 solicits from providers.

17           (3) A health care provider who complies or fails to  
18 comply in good faith with subsection (2) of this section is not  
19 liable in a civil action for damages as a result of an act or  
20 omission during the compliance.

21           (4) For purposes of this section:

22           (a) Health care provider means an individual or agency  
23 involved in administering immunizing agents; and

24           (b) Immunizing agent means a vaccine, toxoid, or other  
25 substance used to induce active immunity to a disease or infectious  
26 agent in a specific individual.

27           Sec. 7. (1) The Department of Health and Human Services  
28 shall establish the Childhood Immunization Registry to record



1 information regarding immunizations performed under the Childhood  
2 Vaccine and Immunization Registry Act. The department shall enter  
3 into the registry information received under section 71-604 and  
4 section 6 of this act. The department shall determine how names  
5 and data of children who move or immigrate to Nebraska shall be  
6 entered into the registry. The department shall cooperate with  
7 representatives of other jurisdictions maintaining registries in  
8 exchanging information on the registries.

9       (2) The information contained in the registry is subject  
10 to the confidentiality and disclosure requirements of this section  
11 and sections 71-602 and 71-602.01 and to rules and regulations  
12 adopted under the act. The department may access the information  
13 contained in the registry when necessary to fulfill its duties  
14 under the act.

15       (3) The department shall use the information in the  
16 registry only for purposes pertinent to optimizing immunization  
17 levels. The department shall transfer information from the  
18 registry pertaining to an individual child immediately upon the  
19 child reaching twenty years of age to archive files that may be  
20 accessed by any individual seeking access to his or her information  
21 after reaching twenty years of age.

22       (4) The department, with solicited input from concerned  
23 parties, shall determine which persons shall have access to the  
24 registry and determine what registry information will be accessible  
25 to such persons, consistent with the policies established under the  
26 act.

27       Sec. 8.     Section 71-541, Revised Statutes Supplement,  
28 2000, is amended to read:

1           ~~71-541.~~ A physician, an advanced practice registered  
2 nurse, a physician assistant, a pharmacist, a licensed health care  
3 facility, a public immunization clinic, a local or district health  
4 department, any provider licensed to administer or provide  
5 immunizing agents, the Department of Health and Human Services, the  
6 Department of Health and Human Services Regulation and Licensure,  
7 and the Department of Health and Human Services Finance and Support  
8 ~~may share immunization information which is not restricted under~~  
9 ~~section 71-540~~ shall have access to the Childhood Immunization  
10 Registry. The ~~unrestricted~~ immunization information shared under  
11 this section may include, but is not limited to, the patient's  
12 name, date of birth, dates and vaccine types administered, vaccine  
13 lot numbers, documentation of adverse reactions, dates of diseases,  
14 and any immunization information obtained from other sources.

15           Sec. 9. Section 71-542, Revised Statutes Supplement,  
16 2000, is amended to read:

17           ~~71-542.~~ (1) Immunization information which is not  
18 confidential or restricted under section 71-540 sections 6 to 8 of  
19 this act concerning children enrolled in a child care program  
20 licensed pursuant to sections 71-1908 to 71-1917, a school, or a  
21 postsecondary educational institution may be accessed by the  
22 licensed child care program, school, or postsecondary educational  
23 institution of higher education from any of the persons or entities  
24 described in section ~~71-541~~ 8 of this act, subject to security  
25 provisions to be set by ~~rule and regulation as provided in section~~  
26 ~~71-543~~ rules and regulations adopted under the Childhood Vaccine  
27 and Immunization Registry Act. Such immunization information is  
28 limited to the child's name, date of birth, immunization provider,

1 and all dates of immunization by vaccine type documented in the  
2 immunization information. The access to immunization information  
3 by a licensed child care program, school, or a postsecondary  
4 educational institution under this section does not change a  
5 parent's or legal guardian's right to access medical information  
6 about his or her child or ward.

7 (2) Immunization information received under this section  
8 is confidential, except that a child's immunization information  
9 received under this section may be disclosed to the child's parents  
10 or legal guardian. Unauthorized public disclosure of such  
11 confidential information by an individual or an officer or employee  
12 of a child care program licensed pursuant to sections 71-1908 to  
13 71-1917, a school, or ~~an~~ a postsecondary educational institution of  
14 ~~higher education~~ is a Class III misdemeanor.

15 (3) The person or entity described in section ~~71-544~~ 8 of  
16 this act which provides immunization information to a licensed  
17 child care program, a school, or a postsecondary educational  
18 institution in accordance with this section may charge a reasonable  
19 fee to recover the cost of providing such immunization information.

20 Sec. 10. Section 71-544, Revised Statutes Supplement,  
21 2000, is amended to read:

22 ~~71-544.~~ Any person who receives or releases immunization  
23 information in the form and manner prescribed in ~~sections 71-539 to~~  
24 ~~71-544~~ the Childhood Vaccine and Immunization Registry Act and any  
25 rules and regulations which may be adopted and promulgated pursuant  
26 to ~~sections 71-539 to 71-544~~ the act is not civilly or criminally  
27 liable for such receipt or release.

28 Sec. 11. Section 71-543, Revised Statutes Supplement,

1 2000, is amended to read:

2 ~~71-543.~~ The Department of Health and Human Services, the  
3 Department of Health and Human Services Regulation and Licensure,  
4 and the Department of Health and Human Services Finance and Support  
5 may adopt and promulgate rules and regulations to implement  
6 ~~sections 71-539 to 71-544~~ the Childhood Vaccine and Immunization  
7 Registry Act, including procedures and methods for access to and  
8 security of the immunization information and the Childhood  
9 Immunization Registry.

10 Sec. 12. Section 71-530, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 ~~71-530.~~ The Childhood Vaccine and Immunization Registry  
13 Act is not intended to create an entitlement to any activities  
14 described in the act, and the Department of Health and Human  
15 Services may perform the activities described in sections 3 to 5 of  
16 the act to the extent funds are available.

17 Sec. 13. Section 71-604, Revised Statutes Supplement,  
18 2000, is amended to read:

19 71-604. (1) A certificate for each live birth which  
20 occurs in the State of Nebraska shall be filed on a standard  
21 Nebraska certificate form. Such certificate shall be filed with  
22 the Department of Health and Human Services Finance and Support  
23 within five business days after the birth.

24 (2) When a birth occurs in an institution or en route  
25 thereto, the person in charge of the institution or his or her  
26 authorized designee shall obtain the personal data, prepare the  
27 certificate which shall include the name, title, and address of the  
28 attendant, certify that the child was born alive at the place and

1 time and on the date stated either by standard procedure or by an  
2 approved electronic process, and file the certificate. The  
3 physician or other person in attendance shall provide the medical  
4 information required for the certificate within seventy-two hours  
5 after the birth.

6 (3) When a birth occurs outside an institution, the  
7 certificate of birth shall be prepared and filed by one of the  
8 following:

9 (a) The physician in attendance at or immediately after  
10 the birth;

11 (b) The father, the mother, or, in the absence of the  
12 father and the inability of the mother, the person in charge of the  
13 premises where the birth occurred; or

14 (c) Any other person in attendance at or immediately  
15 after the birth.

16 (4) Upon receipt of the certificate under subsection (1)  
17 of this section, the department shall transmit the information  
18 contained in the certificate to the Childhood Immunization Registry  
19 created under the Childhood Vaccine and Immunization Registry Act.

20 (5) On or after the operative date of this section, the  
21 Department of Health and Human Services Finance and Support shall  
22 transmit to the registry the information contained in other  
23 certificates of children under twenty years of age, which  
24 certificates were previously filed under subsection (1) of this  
25 section before such operative date, as determined by the Department  
26 of Health and Human Services.

27 Sec. 14. Section 79-217, Reissue Revised Statutes of  
28 Nebraska, is amended to read:

1               79-217.     Except as provided in sections 79-221 and  
2     79-222, the school board ~~or board of education~~ of each school  
3     district and the governing authority of each private,  
4     denominational, or parochial school in this state shall require  
5     each student to be protected against measles, mumps, rubella,  
6     poliomyelitis, diphtheria, pertussis, and tetanus by immunization  
7     prior to enrollment. Any student who does not comply with this  
8     section shall not be permitted to continue in school until he or  
9     she so complies, except as provided by section 79-222. Each school  
10    district shall make diligent efforts to inform families prior to  
11    the date of school registration of the immunization requirements of  
12    this section.

13               Except as provided in the Childhood Vaccine and  
14    Immunization Registry Act, the cost of such immunization shall be  
15    borne by the parent or guardian of each student who is immunized or  
16    by the Department of Health and Human Services for those students  
17    whose parent or guardian is financially unable to meet such cost.

18               Sec. 15. (1) Prior to July 1, 2003, the Department of  
19    Health and Human Services shall develop a plan to implement the  
20    Childhood Vaccine and Immunization Registry Act. The plan shall  
21    include: (a) What information in the Childhood Immunization  
22    Registry may be shared with jurisdictions outside the State of  
23    Nebraska; (b) how the data in the registry will be kept current;  
24    (c) the infrastructure necessary to implement the act; (d) how and  
25    when data from other jurisdictions will be entered in the registry;  
26    and (e) how information in current local registries in the state  
27    can be transmitted to the Childhood Immunization Registry.

28               (2) In preparing the plan required by subsection (1) of

1 this section, the department shall consult with: The Health and  
2 Human Services Committee of the Legislature; the chief medical  
3 officer if one is appointed pursuant to section 81-3201 and, if  
4 not, the Director of Regulation and Licensure; the Centers for  
5 Disease Control and Prevention of the Public Health Service of the  
6 United States Department of Health and Human Services or its  
7 successor; the College of Information Science and Technology at the  
8 University of Nebraska at Omaha; the Licensed Practical Nurse  
9 Association of Nebraska; the Nebraska Academy of Family Physicians;  
10 the Nebraska Association of Hospitals and Health Systems; the  
11 Nebraska Association of School Boards; the Nebraska Chapter of the  
12 American Academy of Pediatrics; the Nebraska Health Information  
13 Management Association; the Nebraska Medical Association; the  
14 Nebraska Medical Group Management Association; the Nebraska  
15 Minority Public Health Association; the Nebraska Nurses'  
16 Association; the Nebraska Parent-Teacher Association; the Nebraska  
17 Pharmacists Association; the Nebraska School Nurses Association;  
18 the Public Health Association of Nebraska; children's advocacy  
19 organizations; community action agencies; health insurers  
20 authorized to conduct business in Nebraska; licensed child-care  
21 facilities; local health departments; private schools; agencies  
22 which administer similar registries in other states; and any other  
23 entity which has an interest in developing a childhood immunization  
24 registry in Nebraska.

25           Sec. 16. Sections 15 and 16 of this act become operative  
26 on their effective date. The other sections of this act become  
27 operative July 1, 2003.

28           Sec. 17. Original sections 71-526 to 71-528, 71-530, and

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1 79-217, Reissue Revised Statutes of Nebraska, and sections 71-529,  
2 71-539, 71-541 to 71-544, and 71-604, Revised Statutes Supplement,  
3 2000, are repealed.

4           Sec. 18. The following section is outright repealed:  
5 Section 71-540, Revised Statutes Supplement, 2000.